

Neil A. Tortora - 017312005
ntortora@morrisonmahoney.com
MORRISON MAHONEY LLP
Waterview Plaza
2001 U.S. Highway 46, Suite 200
Parsippany, NJ 07054
Phone: 973-257-3526
Fax: 973-257-3527
Attorneys for Defendant, BJ's Wholesale Club, Inc.

SYLVIA HERSHORN,

Plaintiff,

v.

BJ'S WHOLESALE CLUB, INC.; ABC,
INC.; DEF, INC.; JOHN and JANE DOES
I-V, fictitious names,

Defendants.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CASE NO.:

Civil Action

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 132, 1441 and 1446, Defendant, BJ's Wholesale Club, Inc., a Delaware corporation with the principal place of business in Westborough, Massachusetts, hereby removes the above-captioned action from the Superior Court of New Jersey, Law Division, Monmouth County, to the United States District Court for the District of New Jersey, based upon the following:

1. On or about April 13, 2022, plaintiff commenced a civil action by filing a Complaint in the Superior Court of New Jersey, Law Division, Monmouth County, entitled SYLVIA HERSHORN V. BJ'S WHOLESALE CLUB, INC., ET AL., Docket No.: MON-L-1023-22. ("Complaint")

2. Defendant, BJ's Wholesale Club, Inc., was put on notice of the Complaint in this matter.

3. Pursuant to 28 U.S.C. § 1446 (a), a true and correct copy of the Complaint against this defendant is attached hereto as Exhibit “A”.

4. Pursuant to 28 U.S.C. § 1446(b), this Notice is being filed with this Court within thirty (30) days of BJ’s Wholesale Club, Inc.’s first receipt “through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.”

5. This Honorable United States District Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because this is a civil action in which there is complete diversity of citizenship between Plaintiff and Defendants, and in which the amount in controversy exceeds \$75,000, exclusive of interest and costs, as described below.

6. Based upon the allegations in the Complaint, Plaintiff is a citizen of the State of New Jersey.

7. The Complaint alleges that on or about August 25, 2020, plaintiff, Sylvia Hershorn, slipped and fell while in BJ’s Wholesale Club, Inc.’s store in Linden, New Jersey, due to an alleged dangerous condition in the premises. The Complaint alleges that plaintiff was caused to fall and sustain personal injuries.

8. In this action, plaintiff has named as defendant, BJ’s Wholesale Club, Inc., ABC, Inc., DEF, Inc. and John and Jane Does I-V, fictitious names.

9. Defendant, BJ’s Wholesale Club, Inc. is a corporation organized under the laws of the State of Delaware with its principal place of business in Westborough, Massachusetts.

10. For diversity purposes, BJ’s Wholesale Club, Inc. is a citizen of Delaware. It is not a citizen of New Jersey.

11. The jurisdiction in state court is unlimited damages and plaintiff has provided no limitation of damages being below \$75,000.

12. While BJ's Wholesale Club, Inc. denies all liability to plaintiff and denies that she is entitled to any of the relief sought by the Complaint, based upon the allegations of the Complaint and the injuries alleged, and based upon information and belief, the amount in controversy exceeds the \$75,000 jurisdictional amount under 28 U.S.C. § 1332.

13. Therefore, this civil action is Removable to this Court pursuant to 28 U.S.C. § 1441.

14. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being submitted for filing with the Clerk of the Superior Court, Law Division, Monmouth County, and is being served upon plaintiff. (See Exhibit "B")

15. In filing this Notice of Removal, BJ's Wholesale Club, Inc. does not waive any defects in service of process, venue or personal jurisdiction.

16. For the foregoing reasons, this United States District Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a).

Morrison Mahoney LLP

Attorneys for Defendant,
BJ's Wholesale Club, Inc.

Dated: April 25, 2022

By: 

Neil A. Tortora

LOCAL CIVIL RULE 11.2 VERIFICATION

Other than the action filed in the Superior Court of New Jersey, Law Division, Monmouth County, which is the subject of this Notice of Removal, the matter in controversy, to the best of defendant's knowledge, information and belief, is not the subject of any other action pending in any Court, or of any other pending arbitration or administrative proceeding.

Morrison Mahoney LLP

Attorneys for Defendant,
BJ's Wholesale Club, Inc.

Dated: April 26th, 2022

By: _____


Neil A. Tortora

CERTIFICATION OF SERVICE

I hereby certify that on this date, I caused to be served via Federal Express, a true and accurate copy of the foregoing Notice of Removal on:

Charles M. Crocco, Esq.
Nelson, Fromer, Crocco & Jordan
2300 Route 66, Suite 102
Neptune, New Jersey 07753

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct.

Morrison Mahoney LLP

Attorneys for Defendant,
BJ's Wholesale Club, Inc.

Dated: April 25²⁸, 2022

By: _____



Neil A. Tortora

Exhibit A

10092384

Charles M. Crocco, Esq.
Attorney ID# 019531996
Nelson, Fromer, Crocco & Jordan
2300 Route 66, Suite 102
Neptune, NJ 07753
Phone: (732) 774-6443
Fax: (732) 774-7155
Attorneys for Plaintiffs

SYLVIA HERSHORN;

Plaintiff;

-vs-

BJ'S WHOLESALE CLUB, INC.;
ABC, INC.; DEF, INC., JOHN and
JANE DOES I-V, fictitious names;

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MONMOUTH COUNTY

Docket No.

**COMPLAINT, DEMAND FOR JURY
TRIAL AND DESIGNATION OF
TRIAL COUNSEL**

Plaintiff, SYLVIA HERSHORN, residing in the State of New Jersey, complaining of
the defendants, hereby says:

FIRST COUNT

1. On or about August 25, 2020, the plaintiff, SYLVIA HERSHORN, was
legally and lawfully upon the premises of the defendants, BJ'S WHOLESALE CLUB,
INC., located at 2451 Route 1 South, in the Township of North Brunswick, County of
Middlesex, State of New Jersey.

Charles M. Crocco, Esq.
Attorney ID# 019531996
Nelson, Fromer, Crocco & Jordan
2300 Route 66, Suite 102
Neptune, NJ 07753
Phone: (732) 774-6443
Fax: (732) 774-7155
Attorneys for Plaintiffs

2. At all times relevant herein, the defendant, BJ'S WHOLESALE CLUB, INC., located at 2451 Route 1 South, in the Township of North Brunswick, New Jersey 08902, was an entity, organized under the laws of one of the states of the United States of America and did transact business in the State of New Jersey, at the location known as BJ'S WHOLESALE CLUB, INC., 2451 Route 1 South, in the Township of North Brunswick, County of Middlesex and State of New Jersey.

3. At all times relevant herein and at all times hereinafter mentioned, said defendant, BJ'S WHOLESALE CLUB, INC., was the owner, lessor, operator, managing agent or controller of the property located at, 2451 Route 1 South, North Brunswick, New Jersey 08902, County of Middlesex, State of New Jersey.

4. At all times relevant herein and at all times hereinafter mentioned, said defendants, BJ'S WHOLESALE CLUB, INC., were contractually charged with the certain contractual duties, were general contractors, subcontractors and/or employees of one of the heretofore named defendants and/or acted in individual capacities and were otherwise responsible for the maintenance/cleaning and safety on the premises/property of 2451 Route 1 South, North Brunswick, New Jersey 08902, as aforesaid.

5. At all times mentioned and hereinafter referred to, the fictitious defendant, ABC, Inc., upon information and belief, a corporation or other business entity, organized under the laws of the State of New Jersey and transacted business in

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Nelson, Fromer, Crocco & Jordan
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Attorneys for Plaintiffs

the State of New Jersey. Said fictitious defendant, ABC, Inc., was the owner, landlord, lessor or managing agent and/or controller of said certain property and premises known a 2451 Route 1 South, North Brunswick, New Jersey 08902.

6. At all times relevant herein, the defendant, DEF, Inc., a fictitious name, was a corporation or other business entity, organized under the laws of the State of New Jersey and transacted business in the State of New Jersey. Said fictitious defendant, DEF, Inc., defendants, John and Jane Does I-IV, fictitious names, were general contractors, subcontractors and/or employees of one of the heretofore named defendants and/or acted in individual capacities and were otherwise responsible for the maintenance and safety of the property of 2451 Route 1 South, North Brunswick, New Jersey, as aforesaid.

7. The aforesaid condition and/or the conduct of the aforesaid defendants, including the fictitious defendants, in failing to properly supervise, remove, ameliorate and/or timely abate the aforesaid conditions and for generally failing to exercise the requisite reasonable care and prudence under all of the circumstances; were careless, reckless and/or negligent.

8. On the date aforesaid, the plaintiff, SYLVIA HERSHORN, was lawfully on the property in question, when she was caused to fall and become injured in or about the premises of defendants, BJ'S WHOLESALE CLUB, INC., located at 2451 Route 1 South, North Brunswick, New Jersey, in question.

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Attorneys for Plaintiffs

9. The defendants and the fictitious defendants, and each of them, were negligent for having failed, with notice, either actual or constructive, to make certain that the condition did not exist and did not otherwise cause a hazard to the general public and the foreseeable users of the property.

10. The defendants, and each of them, were negligent in that, inter alia, it/they, as the case may be:

- (a) did not keep the property and premises in a safe condition;
- (b) did not exercise reasonable and proper care;
- (c) caused a dangerous and hazardous condition to exist on the property and premises;
- (d) failed to properly manage, maintain and routinely inspect;
- (e) failed to properly repair;
- (f) failed to properly place warning signs or barriers in the area of the plaintiff's fall;
- (g) knew or should have known that a dangerous and hazardous condition existed on the premises and permitted same to so exist;
- (h) failed to provide proper safeguards, appropriate artificial lighting and/or warnings on the property and premises under the circumstances there and then existing;

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Attorneys for Plaintiffs

(i) had notice of the aforesaid condition but failed to take appropriate remedial action to correct same;

(j) was otherwise negligent in the ownership, letting, operation and maintenance of said property and premises.

11. As a direct and proximate result of the negligent and careless conduct of the defendant as aforesaid, the plaintiff has been caused to sustain severe physiological and psychological injuries, which have continued to the present and which will in the future so continue, with concomitant pain and suffering and a shocking to her nervous system, which has caused the plaintiff great pain and suffering and to incur significant medical expenses, which in the future will continue to incur, with the possibility of future surgery and past, present and future loss of income, for which the defendant should be held liable.

WHEREFORE, plaintiff, SYLVIA HERSHORN, demands judgment against all defendants either jointly, severally or, in the alternative, for damages, interest, attorneys' fees, costs of suit and such other and further relief as this Court may deem appropriate.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues in the within matter.

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Fax: (732) 774-7155
Attorneys for Plaintiffs

NOTICE OF TRIAL DESIGNATION

Pursuant to Rule 4:25-4, Charles M. Crocco, Esq., is hereby designated as trial counsel in the within litigation.

CERTIFICATION

I hereby certify that the within matter is not the subject of any other action or arbitration proceeding, either now or contemplated.



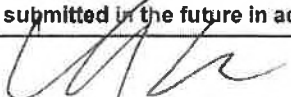
NELSON, FROMER, CROCCO & JORDAN, ESQS.
Attorneys for Plaintiff

By: _____

CHARLES M. CROCCO, ESQ.
Attorney ID# 019531996

Dated: April 12, 2022

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO. AMOUNT: OVERPAYMENT: BATCH NUMBER:
	ATTORNEY / PRO SE NAME Charles M. Crocco, Esq.	TELEPHONE NUMBER (732) 774-6443	COUNTY OF VENUE Monmouth
	FIRM NAME (If applicable) Nelson, Fromer, Crocco & Jordan		DOCKET NUMBER (when available)
	OFFICE ADDRESS 2300 Route 66 - Suite 102 P.O. Box 279 Neptune, N.J. 07754		DOCUMENT TYPE Complaint JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
NAME OF PARTY (e.g., John Doe, Plaintiff) Sylvia Hershorn		CAPTION Sylvia Hershorn v. BJ's Wholesale Club, et als.	
CASE TYPE NUMBER (See reverse side for listing) 605		IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) Sedgwick Claims Management Services <input type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .			
ATTORNEY SIGNATURE: 			

Side 2



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Centrally Managed Litigation (Track IV)

- 280 ZELNORM
- 285 STRYKER TRIDENT HIP IMPLANTS
- 288 PRUDENTIAL TORT LITIGATION

- 290 POMPTON LAKES ENVIRONMENTAL LITIGATION
- 291 PELVIC MESH/GYNECARE
- 292 PELVIC MESH/BARD

Mass Tort (Track IV)

- 248 CIBA GEIGY
- 266 HORMONE REPLACEMENT THERAPY (HRT)
- 271 ACCUTANE
- 274 RISPERDAL/SEROQUEL/ZYPREXA
- 275 ORTHO EVRA
- 277 MAHWAH TOXIC DUMP SITE
- 278 ZOMETHA/AREZIA
- 279 GADOLINIUM

- 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL
- 282 FOSAMAX
- 283 DIGITEK
- 284 NUVARING
- 286 LEVAQUIN
- 287 YAZ/YASMIN/OCELLA
- 601 ASBESTOS

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category

☐ Putative Class Action

☐ Title 59

Civil Case Information Statement

Case Details: MONMOUTH | Civil Part Docket# L-001023-22

Case Caption: HERSHORN SYLVIA VS BJ'S WHOLESale CLUB, INC.

Case Initiation Date: 04/13/2022

Attorney Name: CHARLES MICHAEL CROCCO

Firm Name: NELSON FROMER CROCCO & JORDAN

Address: 2300 ROUTE 66, STE 102 P.O. BOX 279
NEPTUNE TWP NJ 07754

Phone: 7327746443

Name of Party: PLAINTIFF : Hershorn, Sylvia

Name of Defendant's Primary Insurance Company
(if known): Sedgwick Claims Management Services

Case Type: PERSONAL INJURY

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: Sylvia Hershorn? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

04/13/2022

Dated

/s/ CHARLES MICHAEL CROCCO

Signed

Exhibit B

Neil A. Tortora - 017312005
MORRISON MAHONEY LLP
Waterview Plaza
2001 U.S. Highway 46, Suite 200
Parsippany, NJ 07054
Phone: 973-257-3526
Fax: 973-257-3527
Attorneys for Defendant, BJ's Wholesale Club, Inc.

SYLVIA HERSHORN,
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BJ'S WHOLESALE CLUB, INC.; ABC,
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I-V, fictitious names,
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION- MONMOUTH COUNTY

DOCKET NO.: MON-L-1023-22

Civil Action

NOTICE OF NOTICE OF REMOVAL

TO: Clerk, Superior Court of New Jersey
Monmouth County Courthouse
71 Monument Park
Freehold, New Jersey 07728

Charles M. Crocco, Esq.
Nelson, Fromer, Crocco & Jordan
2300 Route 66, Suite 102
Neptune, New Jersey 07753

Defendant, BJ's Wholesale Club, Inc., gives notice that it has removed this action to the United States District Court for the District of New Jersey. A true and correct copy of the Notice of Removal that has been filed with the United States District Court for the District of New Jersey is attached as Exhibit "A". Pursuant to 28 U.S.C. 1446(d), no further proceedings may be held in this Court in this action unless or until the case is remanded.

Morrison Mahoney LLP

Attorneys for Defendant,
BJ's Wholesale Club, Inc.

²⁴
Dated: April 25, 2022

By: 

Neil A. Tortora